

SIDNEY J. COHEN, Esq., State Bar No. 39023
SIDNEY J. COHEN PROFESSIONAL CORPORATION
427 Grand Avenue
Oakland, CA 94610
Telephone: (510) 893-6682

Attorneys for Plaintiff
HOLLYNN DELIL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HOLLYNN DELIL

Plaintiff,

v.

GOLDEN GATE BRIDGE, HIGHWAY,
AND TRANSPORTATION DISTRICT;
and DOES 1 through 20, Inclusive,

Defendants.

CASE NO. C 08-1105 MEJ
Civil Rights

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF: DENIAL OF
DISABLED ACCESS; VIOLATION OF
TITLE II OF AMERICANS WITH
DISABILITIES ACT, 42 USC §12101 *et seq.*;
VIOLATION OF §504 OF REHABILITATION
ACT OF 1973; VIOLATION OF §11135
CALIFORNIA GOVERNMENT CODE;
V I O L A T I O N O F
§§ 4450, ET. SEQ. OF CALIFORNIA
GOVERNMENT CODE; VIOLATION OF §§
54 AND 54.1, CALIFORNIA CIVIL CODE;
VIOLATION OF §19955ff HEALTH AND
SAFETY CODE; AND VIOLATIONS OF
RELATED CODES AND REGULATIONS**

DEMAND FOR JURY TRIAL

1 Plaintiff HOLLYNN DELIL complains of Defendant GOLDEN GATE
 2 BRIDGE, HIGHWAY, AND TRANSPORTATION DISTRICT and DOES 1-20, inclusive,
 3 and alleges as follows:

4 INTRODUCTION

5 1. Plaintiff Hollynn Delil ("Ms. Delil") is a "person with a disability" or
 6 "physically handicapped person."¹ Ms. Delil requires the use of a wheelchair for locomotion
 7 and is unable to use portions of public facilities which are not accessible to disabled persons
 8 who require the use of a wheelchair.

9 2. This claim involves the denial of disabled access to Ms. Delil at the Larkspur
 10 Ferry Terminal, on the Ferries Mendocino and Del Norte , and at the San Francisco Ferry
 11 Terminal, including but not necessarily limited to lack of proper disabled accessible parking
 12 and "paths of travel" in and at the terminals and lack of proper accessible ferries for
 13 transporting persons in wheelchairs between the two terminals.² Ms. Delil was denied equal
 14 protection of the law and was denied Civil Rights under both California law and federal law at
 15 both terminals and aboard both the Del Norte and the Mendocino ferries. Ms. Delil was denied
 16 her rights to full and equal access because the terminals and the ferries were not, and are not
 17 now, properly accessible to persons with disabilities such as Ms. Delil who use wheelchairs.
 18 Ms. Delil seeks to ensure that Defendant Golden Gate Bridge, Highway, and Transportation
 19 District and any other responsible parties remove all barriers to access and perform the work at
 20 the terminals and on the ferries necessary to bring them into compliance with all federal and
 21

22 ¹ (Hereinafter, the words "physically handicapped" and "physically disabled" are used
 23 interchangeably as these words have similar or identical common usage and legal meaning, but the
 24 legislative scheme in Part 5.5 Health & Safety Code uses the term "physically handicapped
 25 persons," and the statutes protecting "Blind and other physically disabled persons," §§51, 52, 54,
 26 54.1, 54.3 and 55 Civil Code and other statutory measures refer to the protection of the rights of
 27 "individuals with disabilities.")

28 ²A preliminary list of items in violation of federal and state disabled access laws and
 regulations are set forth in Exhibit 1 to Ms. Delil's January 28 and February 5, 2008 claims to
 Defendant Golden Gate Bridge, Highway, and Transportation District (see Paragraph 9, *infra.*)

1 state disabled access laws and regulations so that they are fully accessible to persons with
2 disabilities. Ms. Delil also seeks damages for her personal and physical injuries and
3 discriminatory experiences as a result of the failure of the Golden Gate Bridge, Highway, and
4 Transportation District and any other responsible parties to provide accessible facilities and
5 ferries and seeks recovery of reasonable attorney's fees, expenses, and costs.

6 JURISDICTION AND VENUE

7 3. This Court has jurisdiction of this action pursuant to 28 USC §1331 for
8 violations of the Americans with Disabilities Act of 1990, 42 USC §12101 *et seq.* and §504 of
9 the Rehabilitation Act. Pursuant to pendant jurisdiction, attendant and related causes of action
10 arising from the same facts are also brought under California law, including but not limited to
11 violations of California Government Code §4450, *et. seq.*, Health & Safety Code §19955 *et*
12 *seq.*, including §19959; Title 24 California Code of Regulations; and California Civil Code
13 §§ 54, 54.3 and 55.

14 4. Venue is proper in this court pursuant to 28 USC 1391(b) and is founded on the
15 fact that the real property which is the subject of this action is located in this district and that
16 Ms. Delil's causes of action arose in this district.

17 5. This case should be assigned to the San Francisco intra district as the real
18 property which is the subject of this action is located in the San Francisco intra district and Ms.
19 Delil's causes of action arose in the San Francisco intra district.

20 PARTIES AND GOVERNMENT CLAIM

21 6. Ms. Delil is and at all time relevant to this Complaint was a physically disabled
22 person and a "person with disabilities," as these terms are used under California law and under
23 federal laws, including but not limited to §504 of the Rehabilitation Act and Title II of the
24 Americans with Disabilities Act of 1990. These terms, a "physically disabled person," and a
25 "person with disabilities," will be used interchangeably throughout this Complaint. Ms. Delil
26 requires the use of a wheelchair for mobility.

27 7. Defendant Golden Gate Bridge, Highway, and Transportation District and
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1 Defendants Does 1-5 are public entities and/or employees or agents of Defendant Golden Gate
2 Bridge, Highway, and Transportation District and are subject to Title II of the Americans with
3 Disabilities Act of 1990, the Rehabilitation Act of 1973, and the requirements of California
4 State law requiring full and equal access to public facilities pursuant to § 4450ff Government
5 Code and elsewhere, and to all other legal requirements referred to in this complaint.

6 Defendants Does 6-15 are owners, operators, lessors and/or lessees of the public
7 accommodation buildings, structures, and/or facilities which are the subject of this lawsuit.
8 The Larkspur Ferry Terminal, the Mendocino and the Del Norte ferries, and the San
9 Francisco Ferry Terminal and their buildings, structures, and facilities are "public
10 accommodations" subject to the requirements of California Government Code §§ 4450 et seq.,
11 Health & Safety Code §§ 19955 et seq. and of California Civil Code §§ 54, et. seq. On
12 information and belief, the terminals and ferries have, since November 13, 1968, either been
13 newly constructed or undergone "alterations, structural repairs, or additions" subjecting such
14 public accommodations to disabled access requirements of Government Code § 4456 and
15 Health & Safety Code §19959 since July 1, 1970. On information and belief, all such Doe
16 defendants wrongfully discriminated against Ms. Delil on the basis of her disability as part of
17 a joint venture and common enterprise with the named Defendant Golden Gate Bridge,
18 Highway, and Transportation District.

19 8. Ms. Delil does not know the identities of Does 16-20 at this time and prays
20 leave to substitute the true names of each such Defendant when they have been ascertained.
21 Ms. Delil does not know the relative responsibilities of Defendant Golden Gate Bridge,
22 Highway, and Transportation District and Does 1-5 in the ownership and operation of the
23 facilities herein complained of, and alleges a joint venture and common enterprise by
24 Defendant Golden Gate Bridge, Highway, and Transportation District and Does 1-5 in the
25 ownership and operation of each such facility. On information and belief, Ms. Delil also
26 alleges that each such Defendant was and is an owner, operator, lessor, and/or lessee of the
27 public facilities complained about herein.

1 9. GOVERNMENT CLAIMS FILED AND REJECTED - Ms. Delil made timely
2 claims for damages to Defendant Golden Gate Bridge, Highway, and Transportation District
3 by claims dated January 28 and February 5, 2008 and provided a preliminary list of barriers to
4 access in Exhibit 1 the claims. The claims and their Exhibits 1 are incorporated by reference
5 herein as if set forth in full. By letter dated February 22, 2008, Defendant Golden Gate Bridge,
6 Highway, and Transportation District rejected Ms. Delil's claims.

7 **FACTUAL BASES FOR COMPLAINT**

8 10. This lawsuit results from Ms Delil's encounters and denials of access at the
9 Larkspur ferry terminal, on the Del Norte and Mendocino ferries, and at the San Francisco
10 ferry terminal on September 6, 2007, more specifically set forth as follows:

11 A. Ms. Delil arrived at the Larkspur terminal in her wheelchair accessible
12 van with a friend at approximately noon for a planned ferry ride to San Francisco and a visit to
13 the San Francisco Museum Of Modern Art.

14 B. Upon her arrival in the parking lot Ms. Delil found that there were no
15 "accessible" spaces available, but there were five (5) empty spaces blocked off by yellow tape
16 and cones. Ultimately, Ms. Delil's friend had to move some cones and tape so that Ms. Delil
17 could park.

18 C. After Ms. Delil purchased her ticket, she encountered an extremely steep
19 and dangerous ramp on the gangway while attempting to board the Del Norte ferry. During her
20 ascent up the steep ramp, Ms. Delil could not get up the ramp by herself, needed the help of
21 her friend to push her up the ramp, and went over backwards twice in her wheelchair, being
22 saved from a major fall by being caught by her wheelchair's anti-tip wheels. During this
23 process, Ms. Delil, among other things, injured her neck.

24 D. Once on the Del Norte for the crossing to San Francisco, Ms. Delil
25 encountered noncompliant wheelchair seating and tables, a noncompliant counter at the snack
26 bar, noncompliant thresholds, no access to life jackets, and, most distressingly, a non
27 compliant restroom and inaccessible toilet which she was not able to use because of
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1 insufficient space to make a “side transfer” from her wheelchair to the toilet.

2 E. Upon arrival at the San Francisco terminal, Ms. Delil encountered
3 another steep gangway ramp which caused her great difficulty in departing the Del Norte.

4 F. Upon her departure from the San Francisco Terminal, Ms. Delil again
5 had great difficulty in getting up the steep ramp, this time to to board the Mendocino, and got
6 stuck on the steep and dangerous gangway ramp to the ferry. This again required her friend’s
7 assistance in getting up the ramp. When her friend gave her a push to get unstuck and get up
8 the ramp, Ms. Delil’s wheelchair went flying forward on the back anti tip wheels and then
9 landed forward with a bang, again injuring her neck.

10 G. Once on the Mendocino for the crossing to Larkspur, Ms. Delil
11 encountered noncompliant wheelchair seating, a noncompliant counter, and, most
12 distressingly, a non compliant restroom and inaccessible toilet which she was not able to use
13 because of insufficient space to make a “side transfer” from her wheelchair to the toilet.

14 H. Upon arrival at the Larkspur terminal, Ms. Delil encountered another
15 steep gangway ramp which caused her great difficulty in departing the Mendocino.

16 11. As a result of the actions and failures to act of Defendants and each of them and
17 as a result of the failure to provide disabled access, Ms. Delil suffered, and continues to suffer
18 on a daily basis, denial of her Civil Rights, physical injury, psychological and emotional
19 discomfort, pain and suffering, and denial of her rights to full and equal access to public
20 facilities, all to her general and statutory damages. As a result of the above facts, Ms. Delil was
21 denied her Civil Rights, and continues to be denied her Civil Rights, and she was embarrassed,
22 humiliated, and was denied full and equal access solely on the basis that she is physically
23 disabled and unable to use the subject public facilities because of their inaccessibility to
24 persons who require the use of wheelchairs for mobility.

25 **FIRST CAUSE OF ACTION:**
26 **DISCRIMINATION IN VIOLATION OF TITLE II**
OF THE AMERICANS WITH DISABILITIES ACT OF 1990

27 12. Ms. Delil repleads and incorporates by reference as if fully set forth herein the
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1 allegations contained in Paragraphs 1 through 11 of this complaint.

2 13. At all times herein mentioned, Ms. Delil was entitled to the protections of the
3 “Public Services” provisions of Title II of the Americans with Disabilities Act of 1990,
4 (hereinafter referred to alternatively as the “ADA”). Pursuant to 42 USC 12132, § 202 of Title
5 II, no qualified individual with a disability shall, by reason of such disability, be excluded from
6 participation in or be denied the benefits of the services, programs or activities of a public entity,
7 or be subjected to discrimination by any such entity. Defendants Golden Gate Bridge, Highway,
8 and Transportation District and Does 1-5 were and are such public entities. Ms. Delil was at all
9 times relevant herein a qualified individual with a disability for all purposes under the ADA.

10 14. In violation of Title II of the Americans with Disabilities Act of 1990,
11 Defendant Golden Gate Bridge, Highway, and Transportation District and Does 1-5 discriminated
12 against Ms. Delil by failing to ensure that individuals with physical disabilities such as Ms. Delil
13 are not excluded from services, programs and activities at the Larkspur terminal, on the Del Norte
14 and Mendocino ferries, and at the San Francisco terminal and its buildings, structures, and
15 facilities, including but not limited to those set forth in paragraphs 2 and 10, supra. In addition,
16 Defendants have discriminated against Ms. Delil and other persons with mobility disabilities in
17 violation of 28 C.F.R. §35.130, including subsection, (b)(3)(i, and ii), which states:

18 “(3) A public entity may not, directly or through contractual or other arrangements,
19 utilize criteria or methods of administration;

20 (i) That have the effect of subjecting qualified individuals with disabilities to
21 discrimination on the basis of disability;

22 (ii) That have the purpose or effect of defeating or substantially impairing
23 accomplishment of the objectives of the public entities program with respect to individuals with
24 disabilities.”

25 Defendant’s failures and omissions with respect to the denials of access set forth
26 in paragraphs 2 and 10, supra, subject Ms. Delil to discrimination on the basis that she is a
27 disabled person and unable to use such inaccessible public facilities.

1 15. As a result of such discrimination, in violation of §202 of the ADA, Ms. Delil is
2 entitled to the remedies, procedures and rights set forth in § 505 of the Rehabilitation Act of 1973
3 (29 USC 794a), as provided by §203 of the ADA.

4 16. On information and belief, to the date of filing of this complaint, Defendants have
5 failed to make any of their facilities as described herein accessible to and usable by physically
6 disabled persons, as required by law.

7 17. Ms Delil seeks injunctive relief to prohibit the acts and omissions of Defendants
8 as complained of herein which are continuing on a day-to-day basis and have the effect of
9 wrongfully excluding Ms. Delil and other members of the public who are physically disabled
10 wheelchair users from full and equal access to and at the Larkspur ferry terminal, on the Del Norte
11 and Mendocino ferries, to and at the San Francisco ferry terminal, and at and in their buildings,
12 structures ferries,, and facilities. Such acts and omissions are the cause of humiliation and mental
13 and emotional suffering of Ms. Delil in that these actions continue to treat her as an inferior and
14 second class citizen and serve to discriminate against her on the sole basis that she is a person with
15 disabilities and requires the use of a wheelchair for movement in public places; Ms. Delil is
16 unable, so long as such acts and omissions of Defendants continue, to achieve equal access to and
17 use of Defendant Golden Gate Bridge, Highway, and Transportation District's terminals and
18 ferries and their buildings, structures, and facilities. Until Defendant Golden Gate Bridge,
19 Highway, and Transportation District makes its terminals and ferries and its facilities accessible
20 to and useable by Ms. Delil, she is deterred from returning to the terminals and ferries and the
21 buildings, structures, and facilities. The acts of Defendants have proximately caused and will
22 continue to cause irreparable injury to Ms. Delil if not enjoined by this court. Ms. Delil requests
23 that the Court issue an injunction ordering and requiring that Defendants remove all barriers to
24 access for persons with disabilities at and in the terminals and on the ferries and make the
25 terminals, ferries, buildings, structures, and facilities accessible to and usable by disabled
26 persons. Ms Delil further requests that the Court order and require Defendants to instruct all
27 employees, and set up practices and procedures to ensure, that no disabled person using a
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1 wheelchair or who is otherwise mobility impaired is denied full and equal access to and
2 independent use of the terminals, ferries, buildings, structures, and facilities.

3 18. Ms. Delil requests appropriate damages, litigation expenses and costs, and
4 reasonable attorneys' fees as provided by law.

5 WHEREFORE, Ms. Delil prays that this court grant relief as requested herein below.

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7 **SECOND CAUSE OF ACTION:**
8 **VIOLATION OF §504 OF THE REHABILITATION ACT OF 1973**

9 19. Ms. Delil repleads and incorporates by reference as if fully set forth herein the
10 allegations contained in Paragraphs 1 through 18 of this complaint.

11 20. Defendants Golden Gate Bridge, Highway, and Transportation District and Does
12 1-5 are each a local government agency existing under the laws of the State of California with
13 responsibility for, *inter alia*, operating the subject terminals and ferries.. Ms. Delil is informed
14 and believes and thereon alleges that Defendants Golden Gate Bridge, Highway, and
15 Transportation District and Does 1-5, and each of them, have been a recipient of Federal financial
16 assistance and that part of that financial assistance was and is used to fund the construction,
17 alteration, and operations of the subject terminals and ferries and other functions and activities
18 which take place at the terminals, on the ferries, and in the buildings, structures, and facilities.

19 21. By their actions or inactions in denying disabled accessible at the terminals and on
20 the ferries, Defendants have violated Ms. Delil's rights under §504 of the Rehabilitation Act of
21 1973, 29 USC §794 and under the regulations promulgated thereunder.

22 22. Ms. Delil has no adequate remedy at law, and unless the relief requested herein is
23 granted, Ms. Delil or any other similarly disabled persons who have cause to use the terminals and
24 ferries will suffer irreparable injury by the denial of access at the terminals and on the ferries .

25 23. Ms Delil seeks injunctive relief to prohibit the acts and omissions of Defendants
26 as complained of herein which are continuing on a day-to-day basis and have the effect of
27 wrongfully excluding Ms. Delil and other members of the public who are physically disabled
28 wheelchair users from full and equal access to and at the terminals, on the ferries and to and at

the buildings, structures, and facilities. Such acts and omissions are the cause of humiliation and mental and emotional suffering of Ms. Delil in that these actions continue to treat her as an inferior and second class citizen and serve to discriminate against her on the sole basis that she is a person with disabilities and requires the use of a wheelchair for movement in public places; Ms. Delil is unable, so long as such acts and omissions of Defendants continue, to achieve equal access to and use of this terminals and ferries and the subject buildings, structures, and facilities. Until Defendants make the terminals, ferries, building, structures, and facilities accessible to and useable by Ms. Delil, she is deterred from returning to the terminals, ferries, buildings, structures, and facilities. The acts of Defendants have proximately caused and will continue to cause irreparable injury to Ms. Delil if not enjoined by this court. Ms. Delil requests the Court issue an injunction ordering and requiring that Defendants remove all barriers to access for persons with disabilities at and in the terminals and on the ferries, and make the terminals, ferries, buildings, structures, and facilities accessible to and usable by disabled persons. Ms Delil further requests that the Court order and require Defendants to instruct all employees, and set up practices and procedures to ensure, that no disabled person using a wheelchair or who is otherwise mobility impaired is denied full and equal access to and independent use of the terminals, ferries, buildings, structures, and facilities.

24. Ms. Delil requests appropriate damages, litigation expenses and costs, and reasonable attorneys' fees as provided by law.

WHEREFORE, Ms. Delil prays that this court grant relief as requested herein below.

**THIRD CAUSE OF ACTION:
VIOLATION OF CALIFORNIA GOVERNMENT CODE §11135
DISCRIMINATION UNDER PROGRAM RECEIVING
FINANCIAL ASSISTANCE FROM THE STATE**

25. Ms. Delil repleads and incorporates by reference as if fully set forth herein the allegations contained in Paragraphs 1 through 24 of this complaint.

26. On information and belief, the administration, supervision and maintenance of Defendant Golden Gate Bridge, Highway, and Transportation District and its terminals, ferries,

1 buildings, structures, and facilities are funded, at least in part, by the State of California.

2 27. Defendants have failed to make the terminals, ferries, buildings, structures, and
3 facilities accessible to and usable by physically disabled persons, and have failed to make their
4 programs, services, and activities readily accessible to disabled persons, all in violation of
5 California Government Code §11135 *et seq.*, which states:

6 §11135. Programs or activities funded by state; discrimination on basis of
7 ethnic group identification, religion, age, sex, color, or disability; federal act;
definition

8 No person in the State of California shall, on the basis of ethnic group
9 identification, religion, age, sex, color, or disability, be unlawfully denied the
10 benefits of, or be unlawfully subjected to discrimination under, any program or
activity that is funded directly by the state or receives any financial assistance from
the state.

11 With respect to discrimination on the basis of disability, programs and activities
12 subject to subdivision (a) shall meet the protections and prohibitions contained in
13 Section 202 of the Americans With Disabilities Act of 1990 (42 U.S.C. Sec.
14 12132), and the federal rules and regulations adopted in implementation thereof,
except that if the laws of this state prescribe stronger protections and prohibitions,
the programs and activities subject to subdivision (a) shall be subject to the
stronger protections and prohibitions.

15 28. Ms. Delil has no adequate remedy at law, and unless the relief requested herein is
16 granted, Ms. Delil and other disabled persons will suffer irreparable harm in that they will
17 continue to be discriminated against and denied access to the terminals, ferries, buildings,
18 structures, and facilities complained of herein. Further, Ms. Delil suffered damages, and continues
19 to suffer damages as the result of denial of her Civil Rights and failure of Defendants to remove
20 barriers to access and failure to comply with federal and state disabled access laws and regulations.
21 Because Ms. Delil seeks improvement of access for physically disabled persons, which will
22 benefit a significant portion of the public, Ms. Delil seeks attorney's fees, litigation expenses and
23 costs pursuant to §1021.5 California Code of Civil Procedure, as to this cause of action and as to
24 all causes of action in this complaint which seek injunctive relief.

25 WHEREFORE, Ms. Delil prays that this court grant relief as requested herein below.

26 **FOURTH CAUSE OF ACTION:**
27 **VIOLATION OF CALIFORNIA GOVERNMENT CODE §4450 *ET SEQ.***

28 29 Ms. Delil repleads and incorporates by reference as if fully set forth herein the

1 allegations contained in Paragraphs 1 through 28 of this complaint.

2 30. Ms. Delil is informed and believes and thereon alleges that the subject terminals,
3 ferries, buildings, structures and related facilities are subject to California Government Code
4 §§4450 and 4451. Ms. Delil is further informed and believes and thereon alleges that the
5 Defendants have constructed, altered, or repaired parts of the subject terminals, ferries, buildings,
6 structures, and related facilities within the meaning of California Government Code §§4450 and
7 4451 since July 1, 1968, thereby requiring provision of access to persons with disabilities, as
8 required by law. Further, since January 1, 1982, construction or alteration at the terminals, on the
9 ferries and the buildings, structures, and facilities also triggered access requirements pursuant
10 to Title 24 of the California Code of Regulations.

11 31. The actions and inactions of the Defendants as herein alleged constitute a denial
12 of access to and use of the terminals, ferries, buildings, structures, and related facilities by
13 physically disabled persons within the meaning of California Government Code §4450 *et seq.* Ms.
14 Delil has no adequate remedy at law, and unless the relief requested herein is granted, Ms. Delil
15 will suffer irreparable harm as a result of Defendants' failure to fulfill their obligations to provide
16 full and equal access to and at the terminals, on the ferries, and to and at the buildings, structures,
17 and related facilities. Ms. Delil seeks injunctive relief, damages and recovery of reasonable
18 attorneys' fees and costs.

19 WHEREFORE, Ms. Delil prays that this court grant relief as requested herein below.

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21 **FIFTH CAUSE OF ACTION:**
VIOLATION OF CALIFORNIA CIVIL CODE §§54 AND 54.1

22 32. Ms. Delil repleads and incorporates by reference as if fully set forth herein the
23 allegations contained in Paragraphs 1 through 31 of this complaint.

24 33. Pursuant to the authority delegated by Government Code §4450, *et seq.*, the State
25 Architect promulgated regulations for the enforcement of these provisions. Effective January 1,
26 1982, Title 24 of the California Administrative Code adopted the California State Architect's
27 Regulations and these regulations must be complied with as to any construction, alterations, or
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1 modifications of the terminals, ferries, buildings, structures, and related facilities occurring after
2 that date, and as to any modifications required as a result of this lawsuit. Construction or
3 construction changes occurring prior to this date but after July 1, 1968 triggered access
4 requirements pursuant to the "ASA" requirements, the American Standards Association
5 Specifications, A117.1-1961. At the time of the construction, modification, and alteration of the
6 terminals, ferries, buildings, structures, and/or facilities, Title 24 of the California Administration
7 Code required that the terminals, ferries, buildings, structures, and facilities must conform to each
8 of the standards and specifications described in the California State Architect's Regulations. On
9 information and belief Defendants performed such construction and alterations as to trigger access
10 requirements as herein pled.

11 34. At all times relevant to this complaint, California Civil Code §54 has provided that
12 "individuals with disabilities shall have the same right as the general public to the full and free use
13 of.... public buildings, public facilities and other public places."

14 35. At all times relevant to this action, California Civil Code §54.1 has provided that
15 physically disabled persons are not to be discriminated against because of physical disability, in
16 the use, *inter alia*, of a public accommodation. §54.1 California Civil Code provides that:

17physically disabled persons shall be entitled to full and equal access, as other
18 members of the general public, to accommodations, advantages, facilities and
19 privileges of all common carriers, airplanes, motor vehicles,...or any other public
20 conveyances or modes of transportation, telephone facilities, hotels, lodging
21 places, places of public accommodation and amusement or resort, and other places
22 to which the general public is invited, subject only to the conditions or limitations
23 established by law, or state or federal regulations, and applicable alike to all other
24 persons.

25 36. Further, effective January 1, 1997, any violation of the Americans With Disabilities
26 Act of 1990, (as pled in the First Cause of Action herein above, the contents of which are repled
27 and incorporated herein, word for word, as if separately repled), also constitutes a violation of
28 §54(c) and §54.1(d) California Civil Code, thus independently justifying an award of damages and
injunctive relief pursuant to California law. Ms. Delil alleges that she has been denied such full
and equal access during the six (6) months preceding the filing of her public entity claim and
continuing on a daily basis thereafter.

1 terminals, on the ferries, and at the buildings, structures, and facilities and take all actions
 2 necessary to ensure that the terminals, ferries, buildings, structures, and facilities comply with all
 3 federal and state disabled access laws and regulations for persons such as Ms. Delil who require
 4 the use of wheelchairs for mobility.

5 2. Issue a preliminary and permanent injunction directing that Defendants
 6 immediately prepare a full and complete evaluation of its "current services, policies, and
 7 practices," including any leases to inaccessible public facilities, to determine if each of them meets
 8 the requirements of Title II regulations, and a timetable to address any deficiencies in compliance
 9 with 28 C.F.R. §§35.105 and 35.150.

10 3. Retain jurisdiction over Defendants until such time as the Court is satisfied that
 11 Defendants' unlawful policies, practices, acts and omissions, and maintenance of inaccessible
 12 public facilities as complained of herein no longer occur, and will not recur;

13 4. Award to Ms. Delil all appropriate damages, including but not limited to statutory
 14 damages, general damages and special damages in an amount within the jurisdiction of the Court;

15 5. Award to plaintiff all litigation expenses and costs of this proceeding, and all
 16 reasonable attorneys' fees as provided by law; and

17 6. Grant such other and further relief as this Court may deem just and proper.

18 Dated: 2/25/08

SIDNEY J. COHEN
 PROFESSIONAL CORPORATION

/s/ Sidney J. Cohen

19 By _____
 20 Sidney J. Cohen
 21 Attorney for Plaintiff Hollynn Delil

22 DEMAND FOR JURY TRIAL

23 Plaintiff hereby demands a jury for all claims for which a jury is permitted.

24 Dated: 2/25/08

SIDNEY J. COHEN
 PROFESSIONAL CORPORATION

/s/ Sidney J. Cohen

25 By _____
 26 Sidney J. Cohen
 27 Attorney for Plaintiff Hollynn Delil

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Complaint for Injunctive Relief And Damages